

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PENNSYLVANIA PUBLIC SCHOOL
EMPLOYEES' RETIREMENT SYSTEM,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

BANK OF AMERICA CORPORATION, et al.,

Defendants.

CIVIL ACTION NO:
11-CV-00733-WHP

CLASS ACTION

**DECLARATION OF JEFFREY A. BARRACK
IN SUPPORT OF LEAD PLAINTIFF'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF A MOTION TO STRIKE**

I, Jeffrey A. Barrack, pursuant to 28 U.S.C. § 1746, do hereby declare as follows:

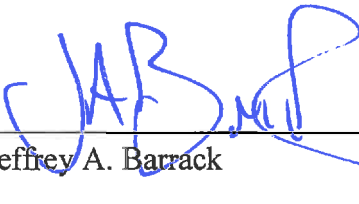
1. I submit this declaration in connection with Lead Plaintiff's supplemental memorandum in support of a motion to strike in the above-captioned matter.
2. I am a partner of the firm of Barrack, Rodos & Bacine, counsel for Lead Plaintiff, the Pennsylvania State Employees' Retirement System, and a member of the bar of this Court. I make this declaration based upon my personal knowledge.
3. Attached as Exhibit 1 is a Schedule of Documents Challenged by Lead Plaintiff.
4. Attached as Exhibit 2 is a true and correct copy of a February 15, 2012 letter from Jeffrey A. Barrack to the Honorable William H. Pauley, III.
5. Attached as Exhibit 3 is a true and correct copy of a February 23, 2012 letter from Jay B. Kasner to the Honorable William H. Pauley III.

6. Attached as Exhibit 4 is a true and correct copy of the LexisNexis transcript of the October 19, 2010 earnings conference call of Bank of America Corp. for the third fiscal quarter of 2010 ("October 19 Earnings Conference Call").

7. The LexisNexis transcript of the October 19 Earnings Conference Call is submitted herewith as Exhibit 4 because numerous typographical and transcription errors are contained in the Bloomberg transcript of the October 19 Earnings Conference Call, upon which the Underwriter Defendants rely (Bongiorno Ex. FF) in support of their motion to dismiss (at p.22 of their opening memorandum). Notably, there are over 20 transcription errors of the colloquy between investment analyst Nancy Bush and Defendant Moynihan contained in the Bloomberg transcript that the Underwriters cite in their opening memorandum, including errors transcribing the name "MERS" mistakenly as the word "marriage." *Compare* Ex 4 at 14-15 (attached) and ¶¶ 155, 157, 162, 315, *with* Bongiorno Ex. FF at 14.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on this 9th day of March, 2012 at Philadelphia, Pennsylvania.



Jeffrey A. Barrack